Section-by-Section Analysis

The opening section (section 2) provides for the purpose of the legislation. The purposes delineated include providing a stable and flexible retirement plan which is comparable to good private sector retirement benefits plans, enhancing portability of retirement assets between Federal jobs and jobs outside the Federal government, and ensuring a fully funded and financially sound federal retirement program.

Title I - Civil Service Pension System

Section 101(a) amends title 5, United States Code, by inserting a new chapter 84, entitled "Civil Service Pension System" (CSPS).

Subchapter I of this chapter provides definitions for administration of the CSPS, identifies the participants in the new CSPS, and specifies its relationship to the Social Security Act. Employees of the District of Columbia are specifically excluded. Employees of the current Civil Service System are included if they so choose pursuant to Section 8471.

Subchapter II describes the basic retirement plan, which is a defined benefits plan applicable to all permanent employees covered by the Social Security System on or after January 1, 1984 and any employees subject to the CSRS who elect to join the CSPS.

Section 8411 of such title lists the combinations of age and service which establish entitlement to an immediate annuity.

Subsections (a) and (b) provide for an immediate annuity at age 55 with 10 years of service and age 62 with 5 years of service.

Subsections (c) and (d) provide for an immediate annuity to the special retirement classes (law enforcement officer, firefighter, or air traffic controller) after 25 years of service in those respective occupations or a combination thereof.

Subsection (e) recognizes the unique situation of military technicians who must maintain military membership as a condition of civil service employment. This currently is covered, for National Guard technicians, in the National Guard Technicians Act of 1968; for reserve technicians, coverage is by administrative agreement with the Office of Personnel Management.

Subsection (f) provides for an immediate annuity to an employee, other than a firefighter, law enforcement officer, air traffic controller, or military technician, who is separated from the service involuntarily and who has completed 25 years of service or is not less than age 50 with 20 years of service.

Subsection (g) provides that the annuity authorized by this section is computed under sections 8413 through 8415 of this title.

Section 8412 provides for deferred retirement at age 62 to a participant under age 62 who terminates service after completing 5 years of civilian service or at age 55 to a participant under age 55 who terminates service after completing 10 years of civilian service.

Section 8413 provides the formula for computing the annuity a participant is entitled to receive. The formula is one percent of the average pay over a period of five consecutive years multiplied by the number of years of service. For the special retirement classes, an annuity supplement equal to the amount of Social Security benefits paid at age 62 will be paid to annuitants from age 55 until age 62. This supplement will be increased annually by the percent increase in the Social Security Act average wage index.

Section 8414 provides for a reduction of an immediate annuity by two percent for each year the participant is under age 62 on the date of separation. For a participant, other than one involuntarily separated under section 8411(f), who is under 62 when separated and who elects to receive an annuity after becoming 55 and before completing 30 years of service, the annuity is reduced by five percent for each year the participant is under age 62. A five percent reduction for each year the participant is under age 55 applies to law enforcement officers, firefighters, air traffic controllers, and military technicians.

Section 8415 lists the methods by which an annuity may be reduced to provide for a survivor annuity.

Subsection (a) provides for an automatic annuity reduction to provide a survivor annuity to the spouse of a married participant unless the participant and his or her spouse jointly waive the spouse's right to a survivor annuity as provided in section 8432.

Subsection (b) provides for an automatic annuity reduction when the participant has elected to provide a survivor annuity to a former spouse under section 8435.

Section 8416 provides that OPM shall prescribe methods of payment of annuities and participant election of the method preferred. Included in those methods are:

(1) a monthly annuity only during the life of the annuitant

(2) a monthly annuity for the joint lives of the annuitant and spouse and the life of the one of them who survives the other.

Section 8417 provides that a participant who retires prior to age 62 may elect to have his or her annuity payments adjusted in such a way that the total amount received before and after receipt of Social Security benefits begin is approximately level. This does not apply to the special classes who receive an annuity supplement between ages 55 and 62.

Section 8418 provides that each Federal agency shall contribute an amount equal to the normal cost of an annuity under this subchapter for the agency's employees, as determined by OPM. It also provides for a yearly determination of the Fund's supplemental liability which is to be credited to the Fund by the Secretary of the Treasury or the Postmaster General of the United States, as appropriate.

Section 8419 provides that the Secretary of the Treasury shall reimburse the Fund each fiscal year from the Department of Defense Military Retirement Fund for the normal cost relating to the military service of employees and members who become participants during the fiscal year.

Subchapter III describes the thrift savings plan, which is an optional plan permitting participants and those former

participants who are receiving disability benefits to contribute a percentage of their basic pay or disability benefits to a selected investment vehicle and have those contributions matched one for one by the government, up to a maximum of a five percent government contribution.

Section 8421(a) allows participants to contribute up to 10 percent of their basic pay to the thrift plan. Former participants who are receiving disability benefits may contribute up to 10 percent of the disability benefits payable. An opportunity to change the contribution amount will be provided at least annually.

Section 8421(b) requires the employing agency to contribute an amount equal to the contribution of the participant at the same time as the participant's contribution is made. The total amount of the employing agency's contribution cannot exceed five percent of the participant's annual rate of basic pay or the disabled participant's disability benefits for the fiscal year.

Section 8421(c) provides that appropriations or funds available to the agency for payments of basic pay are to serve as the source of the agency's contribution to the thrift fund.

Section 8421(d) provides that amounts contributed by the employee to the thrift fund are not included in gross income for income tax purposes.

Section 8422 provides a vesting schedule for the thrift plan. A participant immediately vests in his contributions and their earnings. Beginning at one year of service, the participant vests in 20 percent of the employer's contribution.

This increases by 20 percent for each additional year of participation up to five years and beyond, when the entire share contributed by the employer, plus interest, is vested. A participant who dies while employed by the government immediately vests in 100 percent of the employer's contribution and the earnings on it. For a participant who separates from employment before becoming entitled to an immediate annuity, any employer contributions which he has not vested in are transferred to the Treasury for credit to Miscellaneous Receipts.

Subsection 8423(a) permits a participant who separates from government employment when entitled to an immediate annuity to elect one of four methods of receiving money credited to his or her thrift account. These methods are:

(1) An immediate annuity

(2) A deferred annuity

(3) A lump sum withdrawal

(4) Transfer to an individual retirement account or another qualified plan

Subsection 8423(b) permits a participant who separates from government employment entitled to a deferred annuity to elect one of the methods described above of receiving money credited to his or her thrift account.

Subsection 8423(c) permits a participant who separates from government employment before becoming entitled to an

immediate annuity to elect one of three methods of receiving money credited to his or her thrift account. These methods are:

(1) An annuity at age 62

(2) A lump sum withdrawal at age 62

(3) Transfer to an individual retirement account or another qualified retirement plan

Subsection 8423(d) permits a participant who elected to defer an annuity payment to modify the date specified in that election.

Section 8424 describes how annuities available from the thrift plan will be computed and paid. The Thrift Investment Board will prescribe methods of payment which must include a monthly annuity payable only during the life of the annuitant and a monthly annuity payable for the joint lives of the one who survives the other. The amounts will be determined in accordance with generally accepted actuarial practices. Methods for providing annual increases in the annuity payable must also be prescribed. At the end of each fiscal year, a reconciliation of the investment experience for the annuitant's account and the actuarial assumptions used to compute the annuity will be made. Any excess return may be used to purchase an additional annuity payable from the fund.

Section 8425 provides rules for payments and elections by participants entitled to payments or transfers from the thrift plan.

Section 8426 establishes the Thrift Savings Fund and

prescribes how monies in the Fund may be used. Included in these uses is an option for the Board to permit loans to participants in cases of hardship.

Section 8427 identifies categories of investments available to the Board for investment of sums in the Fund and describes how employee and employer money will be invested in them.

Subsection (a) defines terms used in application of this section.

Subsection (b) requires the Board to establish three funds under which sums in the Thrift Savings Fund may be invested and provides an option to establish other funds. The funds are:

(1) A Government Securities Investment Fund which is invested in special issues of the Treasury.

(2) A Guaranteed Income Investment Fund which is invested in insurance contracts, certificates of deposits, or other instruments which guarantee a specific rate of interest for a fixed period.

(3) A Common Stock Index Investment Fund which is invested in common stock issues included in a commonly recognized stock index in the same ratio to the total value of all shares in the Fund that such common stock issues have to the total value of all shares included in the index.

Subsection (c) specifies that sums in the Thrift Fund which are not available to be invested in one of the other investment funds will be invested in the Government Securities Investment Fund.

Subsection (d) states that participants may elect, at

least once each year into which investment funds they wish to have their Thrift Savings Fund invested.

Subsection (e) specifies that, during the implementation phase of the Thrift Savings Fund, a certain percentage of the contributions made by and for the participant must be invested in the Government Securities Investment Fund. For participant contributions, the initial amount is 100%, reduced over a five year period beginning with the second year by 20% each year. For agency contributions, the same phasing schedule applies, beginning with the sixth year. All amounts earned on these contributions must be reinvested in the Government Securities Investment Fund.

Subsection (f) permits the Board to contract with one or more private business concerns to administer any of the investment funds created by this section.

Subsection (g) provides for the Secretary of the Treasury to issue, as needed by the Fund, two year notes bearing an interest rate equal to the average market yield of all such notes as of the end of the month preceding the date of issue.

Section 8428 prescribes how the Board is to account for the funds of each participant in the System and requires that the participant be provided an annual statement of his or her account. An annual report by an independent qualified public accountant is also required.

Subchapter IV describes the benefits available to survivors of deceased participants and former participants from the basic plan and the thrift plan.

Section 8431 provides for payment of death benefits from the basic plan to a participant's survivor if the deceased had five or more years of service. The survivor gets 50 percent of the accrued annuity (computed as if the worker had retired the day before death, with any applicable early retirement reductions, but without the reduction for survivor benefits).

The survivor annuity begins on the date the participant could have retired entitled to an immediate annuity.

Section 8432 provides for payment of death benefits from the basic plan to the survivor of a retiree who did not waive a survivor annuity and to the survivor of a former participant entitled to a deferred annuity. Survivors eligible for social security benefits get 50 percent of the unreduced annuity (except for early retirement reduction). Survivors who are not eligible for social security get the full annuity that was payable to the retiree (after reductions for early retirement and survivor benefits). When they become eligible for social security, they get 50 percent of that amount, taking into account any adjustments made in the annuity since the date of death.

Money required to pay an annuity to a former spouse is deducted from the amounts described above.

Section 8433 provides for survivor benefits from the thrift savings plan using one of three methods. These are:

(1) An annuity payable for life,

(2) Transfer of the money to the spouse's individual retirement account, or

(3) Lump sum payment

Money required to pay an annuity to a former spouse is deducted from a distribution to the surviving spouse or the estate and held in a fund until expended in payment of that annuity, unless terminated. Any remaining money in such fund goes to the surviving spouse or the estate.

Section 8434 provides for survivor benefits from the basic plan and the thrift plan for eligible former spouses. The benefits from the basic plan are the same as for a surviving spouse under sections 8431 or 8432.

-- In all three of the above sections, any prior elections or prior court orders or decrees concerning an annuity for a former spouse must be honored before payment to a surviving spouse or another former spouse can be made.

-- Benefits from the thrift fund are determined actuarially.

Section 8435 provides for a former participant to elect a survivor benefit from the basic plan and the thrift plan for an eligible former spouse.

Subsection (a) permits a participant who has a former spouse to elect an annuity reduction in order to provide a survivor annuity to such former spouse. The election must be made on the date payment of an annuity from the basic plan commences or, if later, within two years after the date on which

the marriage of the former spouse to the participant is dissolved. A deposit, computed to reflect the amount by which the annuity would have been reduced if it had been continuously in effect since the date the annuity commenced, is required. An election of an annuity reduction to provide a survivor benefit to a former spouse shall not be effective if it:

(1) conflicts with a court order or decree,

(2) exceeds the funds available to pay it, or

(3) is made without the spouse's written consent.

Subsection (b) provides that a retiree whose annuity is being reduced to provide a survivor benefit to a former spouse may elect to provide or increase a survivor annuity for any other former spouse. This election must occur within two years after the former spouse's date of death or remarriage before age 55.

Subsection (c) provides for a former participant to elect to provide or increase a survivor annuity to his spouse if the entitlement of an eligible former spouse is terminated or reduced due to remarriage or death.

Subsection (d) provides that a retiree who is married on the date the annuity commences, whose marriage terminates, and who subsequently remarries may elect, within two years of remarriage, to provide an annuity for the new spouse. A deposit to retroactively fund this benefit is required.

Subsection (e) requires a six percent interest payment on any deposit needed to fund an annuity election under subsection (a) or (d).

Subsection (f) provides for offsetting the retiree's annuity if the deposit required by subsections (a) and (d) is not made.

Subsection (g) permits OPM to extend the time limit for making the deposit required by subsections (a) and (d).

Subsection (h) provides for a waiver of the requirement that the spouse of a retiree waive a right to a survivor benefit in certain situations.

Section 8436 provides for termination of a survivor annuity on death of the spouse, or former spouse, dissolution of the marriage, or remarriage of the former spouse before reaching age 55.

Subchapter V describes the disability benefits available to a participant who has at least 18 months of service.

Section 8441 provides definitions for the administration of this benefit.

Section 8442 provides that an eligible participant is entitled to receive benefits under this subchapter if disabled based on the Social Security definition and under 62 or if unable to work in current position and ineligible for reassignment and under 55. At age 62/55, the annuity is payable under the basic plan provisions of subchapter II based on at least 5 years actual service plus projected service through age 62/55. Average pay for an employee who meets the Social Security disability definition is equal to pay on the date of disability, increased each time after that date by the compounded overall average percentage increase in the rates of the General Schedule pursuant to section 5305.

Section 8443 provides the following methods for computing disability benefits:

(1) If eligible for Social Security or ineligible for Social Security only as a result of insufficient quarters of coverage, 60 percent of average pay minus 100 percent of the Social Security benefit.

(2) If occupationally disabled, 60 percent of final pay for the first year. After the first year, 40 percent of final pay while the participant is under 55 years of age.

Section 8444 requires a claim for disability benefits to be filed within one year after the date the participant separates from employment by the Federal Government. This time limit may be waived by the insuror.

Section 8445 requires the insuror to direct a medical examination of disability retirement applicants.

Section 8446 requires that an applicant who is determined able to perform the work required in any position offered by the agency for which he is qualified, is not lower than two grades or levels below his grade or level, and is within his commuting area must be considered for appointment to such position. The applicant is entitled to appeal a determination that be is able to perform the work required of such positon.

Section 8447 provides for termination of disability benefits to an individual who recovers from the disability before reaching age 62 or, in the case of an employee who is occupationally

disabled, age 55. These benefits may be resumed if there is a recurrence of disability. In the case of an individual whose benefits were terminated due to restored earning capacity, benefits are resumed if he is not reemployed within one year, his disability continues, and his income for one year is less than the amount establishing his restored earning capacity.

Section 8448 establishes that an individual is not entitled to receive both disability benefits under this chapter and injury compensation benefits under subchapter I of chapter 81 of this title for the same period of time.

Section 8449 provides for disability benefits for a Reserve Components technician who is separated from employment as a technician due to a disability which disqualifies him from membership in the National Guard or from holding the military grade required for such employment and who is not placed in another position.

Section 8450 provides that OPM will purchase a disability insurance policy from a disability insurance company to provide disability benefits to those eligible and to enter into a contract with the company to administer program provisions which OPM is not specifically required to do. The contract may not exceed 5 years and may include a provision authorizing extensions for 1 year at a time.

Section 8451 provides for OPM to arrange with the disability insurance company for the reinsurance of portions of the total amount of insurance with other disability insurance companies. OPM will determine which companies are eligible to participate

as reinsurers at least every 3 years and will establish a formula for the amount of insurance retained by the issuing company and the amount of reinsurance.

Section 8452 provides for the requirements for the annual accounting of the insurance policy to OPM and for a special contingency reserve.

Section 8453 provides for the establishment of an Employee Disability Insurance Fund in the U.S. Treasury and requires agencies to make payments to the fund from their salary appropriations.

Subchapter VI describes general provisions applicable to the administration of the basic plan.

Section 8461 provides that OPM shall pay all benefits payable under the basic plan from the Fund and shall administer all provisions not specifically required to be administered by the Board.

Section 8462 provides for an annual adjustment to the basic pension as a result of an increase in the consumer price index as follows:

(1) Up to 4%, 50% of CPI.

(2) From 4 to 8%, 75% of CPI.

(3) Over 8%, CPI minus 2.

The adjustment is made in December (payable in January), and is based on the change from September to September. A pro rata share of the increase is payable to retirees or survivor annuitants for whom this is the first increase.

Section 8463 provides that each annuity and disability benefit is stated as an annual amount, one-twelfth of which is the monthly rate payable.

Section 8464 provides that a participant's annuity under the basic pension begins to accrue on the day after the participant separates from government employment and terminates on the date of death or other terminating event provided by law. It further provides that a survivor annuity begins to accrue on the date of death of the participant or retiree on whom the annuity is based and terminates on the last day of the last month ending before the surviving spouse dies or remarries before age 55. In the case of a participant not eligible to retire on the date of death, the annuity commences on the date the participant would have been eligible to retire.

Section 8465 provides that an individual entitled to receive a basic pension may waive receipt of all or part of the benefits. An individual may also make allotments from the benefit payment.

Section 8466 provides that an application for benefits must be received before the former participant's 115th birthday; for survivor benefits, the application must be received within 30 years after the death or other event which establishes entitlement to the benefit.

Section 8467 requires compliance with the terms of a court order requiring payment of an annuity, in whole or in part, to another person.

Section 8468 provides for termination of an annuity when an annuitant is employed in an appointive or elective position in the Government. Upon termination of the employment, his annuity rights are redetermined. The amount of the annuity resulting from a redetermination is not less than the amount of the terminated annuity plus any increases under section 8462 of this title.

Subchapter VII outlines the transition provisions for individuals covered by the CSRS who choose to participate in the CSPS.

Section 8471 permits CSRS participants to begin participation in the CSPS and retain accrued credit for entitlement to benefits under the CSRS for service subject to that system. It also provides that rehires who are required to participate in the CSPS retain credit earned under CSRS and are permitted to deposit to the fund any amount previously refunded.

Section 8472 provides that CSRS participants who elect to first participate in the CSPS are allowed credit for service under both systems for purposes of determining eligibility to retire in both systems. Pay for such individuals subsequent to beginning participation in the CSPS is taken into account in computing average pay under both systems.

Section 8473 provides that service by a participant during the temporary adjustment period will be recognized by

transferring from the Fund to the Thrift Savings Fund an amount which equals twice his or her contributions in any calendar year plus interest for such calendar year at the rate determined under section 8334 (a) of title 5. The amount transferred will be in the form of interest-bearing securities of the United States. For vesting purposes, half of the amount will be treated as a contribution from the participant and half as a contribution by the employing agency.

Section 8474 defines "reemployed annuitant" for various Government retirement systems. This section provides that a reemployed annuitant retains entitlement to the Government retirement system under which he/she retired. It further provides that service performed as a reemployed annuitant under CSPS shall be credited only for eligibility to retire under CSPS and cannot be considered creditable service for the annuitant's previous retirement system and that pay earned as an employee before and after reemployment is considered in computing average pay under both the CSPS and the annuitant's Government retirement system.

Section 8475 excludes former CSRS participants who join the CSPS from the offset provisions of the Social Security Act.

Section 8476 authorizes OPM to prescribe regulations to carry out this subchapter.

Subchapter VIII describes the Civil Service Thrift Investment Management System.

Section 8491 establishes a Civil Service Thrift Investment Board, composed of the Chairman of the Federal Reserve Board, the Secretary of the Treasury, the Director of OPM, and two representatives of Federal employee organizations appointed by the President. The Chairman of the Federal Reserve Board will chair the Board. Specific responsibilities of the Board are detailed here.

Section 8492 provides for the establishment of a Civil Service Thrift Investment Advosory Committee, composed of six members appointed by the Board. Three are to be investment asset managers and three are to be administrators of thrift savings plans.

Section 8493 provides for the Board to appoint an Executive Director to carry out the policies of the Board in administering the Thrift Savings Fund. The Executive Director is authorized to enter into contract as necessary to carry out these policies.

Section 8494 states the investment policy governing the Fund.

Section 8495 provides rules of administration for the Board.

Section 8496 establishes requirements relating to investment fund contracts.

Section 8497 identifies fiduciaries and their responsibilities, defines "party in interest," lists prohibited practices by fiduciaries, and describes penalties for committing a prohibited practice.

Title II - Amendments relating to Social Security.

Section 201(a) amends section 210(a)(5) of the Social Security Act by adding a new subparagraph concerning service

performed by an individual who transfers to or commences participation in the CSPS.

Section 201(b) amends section 3121(b)(5) of the Internal Revenue Code of 1954 by adding a new subparagraph concerning service performed by an individual who transfers to or commences participation in the CSPS.

Title III - Miscellaneous and conforming Amendments

Section 301 extends the Federal Employees Retirement Contribution Temporary Adjustment Act of 1983 from January 1, 1986 until January 1, 1987.

Section 302 amends section 5363(a) of title 5, United States Code, to provide pay retention for disabled employees placed as a result of subchapter V of chapter 84 in a lower grade position.

Section 303(a) amends section 8331 of title 5, U..S. code, to exclude District of Columbia government employees first employed after January 1, 1987.

Section 303(b) amends section 8332 of title 5, United States Code, by adding a new subsection excluding participants in the CSPS from the creditable service provisions of the CSRS.

Section 303(c) amends section 8333(b) of title 5, United States Codes to modify the requirement for an employee or Member to complete at least one year of creditable service as a participant out of the last two years before separation to include service under chapter 84. It also amends section 8333(c) by making the contribution requirements applicable only to service performed while not a participant in the CSPS under chapter 84.

Section 303(d) amends section 8334(a) of title 5, United States Code, relating to deductions from an employee's pay for both CSRS and Social Security coverage. An employee who was covered by the CSRS on December 31, 1983 and who was subsequently covered by Social Security will continue in the CSRS at a reduced contribution. The contribution to CSRS will be equal to the excess of the employee's normal CSRS contribution over the full Social Security contribution. Rewrite

Section 303(e) amends section 8334(d) of title 5, United States Code, to exclude participants under chapter 84 from making a redeposit to the Fund for a refund of retirement deductions covering service for which they may be allowed credit under subchapter III of chapter 83.

Section 303(f) amends section 8339 of title 5, United States Code, to specify that the CSRS benefit will be offset by 100% of the Social Security benefit attributable to federal service.

Section 304 amends section 1005(d) of title 39, United States Code, to include officers and employees of the Postal Service for coverage under the provisions of chapters 83 and 84 of title 5.

Section 305 requires agencies to pay all group life insurance basic plan costs from salary appropriations.

Section 306 amends title 5, U.S. Code, to incorporate health benefit plan eligibility requirements for former spouses as a result of P.L. 98-615.

Section 307 amends section 2105(c) of title 5 to provide

that chapter 84 does not apply to employees of nonappropriated fund instrumentabilities.

Title IV - Authorization and Effective Dates.

Section 401 provides for payment of the fiscal year 1986 expenses of the Civil Service Thrift Investment Board from appropriations.

Section 402 provides that this act takes effect 180 days after enactment, except for subchapter VIII of chapter 84 (relating to the Civil Service Thrift Investment Board), which takes effect on the date of enactment.